

444
The 11th February, 1971

No. SE/PWD/B&R/Karnal I.—Whereas it appears to the Governor of Haryana that land is likely to be required to be taken by Government, at public expense, for a public purpose, namely, for constructing Rajound-Assandh Road to village Mundh in Karnal District, it is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provision of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may within 30 days of the publication of this notification file an objection in writing before the Land Acquisition Collector, Haryana, P.W.D., B & R Branch, Ambala Cantt.

SPECIFICATION

District	Tehsil	Locality	Area in acres	Radius
Karnal	Kaithal	Kheri Sharaf Ali	3.50	As demarcated at site
	Kaithal	Thal	4.40	
	Kaithal	Mundh	1.89	
			9.79	

(Sd.)

Superintending Engineer,
Karnal Circle, P.W.D. B.&R. Branch.

LABOUR AND EMPLOYMENT DEPARTMENT

The 12th February, 1971

No. 1027-ASO(L)-70/3388.—In exercise of the powers conferred by section 88 of the Employees, State Insurance Act, 1948 (34 of 1948), the Governor of Haryana hereby exempts with effect from the 10th July, 1970, from the operation of the said Act, except Chapter V-A thereof all employees of factories or establishments under the control of the Haryana Government,—

- (a) Who are employed for a period of less than seven months in a year in an area in which the provisions of Chapters IV and V are in force, or
- (b) who are employed in an area in which the provisions of Chapters IV and V are not in force on any work connected with the administration ; or with the purchase of raw materials, or the distribution, or sale of the products, of a factory which is situated in an area in which the provisions of Chapters IV and V are in force.

2. The above exemption is subject to the following conditions, namely :—

- (i) The factories shall maintain a register showing the names and designations of the exempted employees ;
- (ii) The employees shall continue to receive such benefits under the said Act as they might have become entitled to on the basis of the contributions paid before the date of publication of this notification ; and

345

(iii) The contribution paid by an employee during the period before he is exempted under this notification shall not be refunded and he shall continue to receive such benefits under the said Act, to which he would be entitled on the basis of these contributions.

B. L. AHUJA,

Commissioner for Labour and Employment.
and Secy

LABOUR DEPARTMENT

Dated, Chandigarh the 5th February, 1971

No. 1321-I-Lab-71/3940.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to published the following awards of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Raj Potteries Works, Gurgaon.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD**

Reference No. 49 of 1969.

between

**SHRI RAM SUMER WORKMAN AND THE MANAGEMENT OF M/S RAJ POTTERIES
WORKS, GURGAON.**

*Present :—*Shri Sarda Nand for the Workman.

Shri D.N. Talen for the management.

AWARD

Shri Ram Sumer was in the service of M/s Raj Potteries Works, Delhi Road, Gurgaon, as an unskilled workman at Rs 80 P.M. since 2nd June, 1968. His services were terminated by the management on 29th September, 1969. This gave rise to an industrial dispute. He made a complaint to the Labour Officer on 8th July, 1969 and then served the demand notice on 16th July, 1969 asking for his reinstatement, with continuity of his previous service and full back wages, contending that his services had been terminated without any justification. The Conciliation Officer initiated conciliation proceeding but without any satisfactory result.

The Governor of Haryana, was therefore, pleased to refer this dispute for adjudication to this Tribunal in exercise of powers under section 10(1) of the Industrial Disputes Act,—*vide* order No. ID/GG-7-1-69/27867, dated 13th October, 1969, the question for determination being as given under :—

Whether the termination of services of Shri Ram Sumer was justified and in order. If not; to what relief is he entitled ?

On receipt of the above reference notices were given to the parties. The workman concerned filed his statement on 30th October, 1969 reiterating his above claim. The management filed its written reply to the claim statement on 20th November, 1970 controverting the above allegations of the workman. While admitting that he had been engaged as an unskilled workman on 2nd June, 1968, it was pleaded that the management had not terminated his services on 8th July, 1969. According to the contentions raised in the written statement the workman Shri Ram Sumer had refused to sign the office order book on 7th July, 1969 and had disobeyed the order of the management on the morning of 8th July, 1969 requiring him to work in another department of the factory. It was further alleged that he was duly served with a charge sheet for the said disobedience and it was only after holding a proper domestic enquiry that his services were terminated.

On the pleadings of the parties the question that arose for determination in the case was precisely the same as per reference stated above.

The workman has examined three witnesses including Shri Sarda Nand, General Secretary Gurgaon Factory Workers Union, Gurgaon, Shri Ajudhia Parshad, President of the said union and Shri Dharmendra Nath Labour Officer-cum-Conciliation Officer, Gurgaon and has made his own statement. He has placed reliance upon three documents consisting of the complaint, dated 8th July, 1969 made by him to the Labour Officer, Gurgaon protesting against his dismissal from service Ex-W.W.1/1, the letter, dated 26th July, 1969 addressed by the management to the Conciliation Officer asking for the rejection of the demand raised by the workman Ex-W.W.4/1, and the demand notice, dated 16th July, 1969 Exhibit W.W.1/3.

446

The management, on the other hand, has examined 4 witnesses, namely, Shri Devi Charan Proprietor M.W.1, Shri K.C. Chopra Manager M.W. 2, Shri Amar Nath Accountant M.W. 3 and Shri C.B. Kaushik Ex-Labour Officer of the factory Exhibit M.W. 4. The documentary evidence produced on behalf of the management consists of the letter, dated 26th July, 1969 addressed by the management to the Conciliation Officer Exhibit M.W. 4/1. Shri C.B. Kaushik Exhibit M.W. 4/2, the enquiry proceedings have also been placed on the record.

Arguments have been heard on both sides and I have considered the facts on record. The learned representative of the management has raised a preliminary objection that this Tribunal has no jurisdiction to adjudicate upon the dispute in this case. It has been contended that the reference of the dispute under section 10(1) was made to the Industrial Tribunal presided over by Shri P.N. Thukral, and that Tribunal alone is competent to dispose of the reference. I am afraid, the contention has no force at all. Shri P.N. Thukral, has been appointed as Presiding Officer of the Labour Court with Headquarters at Rohtak by order dated 6th November, 1970 of the Governor of Haryana. By an other order of the same date I have been appointed as the Presiding Officer of the Industrial Tribunal, Haryana, at Faridabad, in place of Shri P.N. Thukral and as such I am competent to proceed further and dispose of the present reference by virtue of section 8 of the Industrial Disputes Act which is reproduced as under:

Section 8. 'If for any reason a vacancy (other than a temporary absence) occurs in the office of the Presiding Officer of a Labour Court, Tribunal or National Tribunal or in the office of the chairman or any other member of a Board or Court, then in the case of a National Tribunal, the Central Government and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceedings may be continued before the Labour Court, Tribunal, National Tribunal Board or Court, as the case may be, from the stage at which the vacancy is filled.'

Noting to the contrary has been shown by the learned representative of the management and for the reasons aforesaid the preliminary objection raised by him with regard to the jurisdiction of this Tribunal is over-ruled.

As far the propriety of the order of the termination of the services of the workman, the law is clear and well defined. Before inflicting the punishment of dismissal the employer has to furnish the workman concerned with a charge sheet in writing setting out the specific charge, levelled against him and a domestic enquiry has to be held to establish that charge by giving full opportunity to the workman to defend his case. It has to be seen as to whether these essential conditions have been satisfied in the instant case or not.

The case for the management is that Shri Ram Sumer workman had disobeyed the order of the management on 7th July, 1969 to work in some other department and had absented himself from duty for which he was charge sheeted on 8th July, 1969. He however, did not report for duty even there after and another charge sheet was given to him on 16th July, 1969. It has further been alleged that Shri C.B. Kaushik the then Labour Officer of M/s Raj Potteries Works, Gurgaon was deputed to hold an enquiry into the aforesaid charges of disobedience, in-subordination and wilful absence from duty against Shri Ram Sumer who did not appear before the Enquiry Officer in spite of notice. After holding the enquiry, *ex parte* against the workman, Shri C.B. Kaushik finding him guilty of the said charge submitted his report on 23rd September, 1969 recommending for his dismissal from service where-upon the management passed the impugned order on 29th July, 1969.

In support of the above contentions, the management has examined 4 witnesses including its proprietor Shri Devi Charan, Manager Shri K.C. Chopra, Accountant Shri Amar Nath and finally Shri C.B. Kaushik the Enquiry Officer. The enquiry proceedings have been placed on the record along with the charge sheets containing the specific charges levelled against the workman as described above.

The learned representative of the workman has argued that, as a matter of fact, no charge sheet was given to the workman himself and the same having been handed over to the President of the union of the workers, there was no sufficient compliance with the requirements of the law. He has referred me to the statement of Shri Ram Sumer workman concerned recorded by my learned predecessor on 12th June, 1970 and I have carefully gone through it. The contention raised on behalf of the workman that he was not given the charge sheets does not appear to be true. Shri Devi Charan, Proprietor has deposed that the charge sheets were sought to be delivered to Shri Ram Sumer through the Accountant Shri Amar Nath. The workman had refused to accept the charge sheet in the beginning but later on he had been prevailed upon through other workers to accept the same. To the same effect are the statements of Shri Amar Nath Accountant and Shri K.C. Chopra, Manager. A perusal of the enquiry proceedings conducted by Shri C.B. Kaushik would reveal that the workman had submitted his detailed reply on denying altogether the charges levelled against him by the management. This is clear from his own statement also. In the circumstances, it can not be believed that the charge sheets were not properly given to the workman and that he had no sufficient opportunity to refute the same.

Then remains the question of the fairness or otherwise of the domestic enquiry conducted by Shri C.B. Kaushik. Shri Ram Sumer workman has shown his complete ignorance about this enquiry but he does not appear to have come forward with the real truth. From the statement of Shri C.B. Kaushik the Enquiry Officer which finds Corroborate in the testimony of Shri K.C. Chopra, it is clear that Shri Ram Sumer had chosen not to appear and take part in the enquiry proceedings for the reasons best known to him. Shri C.B. Kaushik had adjourned the enquiry proceedings thrice to enable Shri Ram Sumer workman to appear before him and defend his case. The notice of the dates fixed for holding the proceedings was given to him by registered post as well as under postal certificate, express delivery but Shri Ram Sumer had tried to avoid and refuse service and the Manager Shri K.C. Chopra who had accompanied the postman having attested to the above fact Shri C.B. Kaushik had not alternative but to proceed *ex parte* against the workman. He is no more in the service of M/s Raj Potteries Works and has a long since been conducting the cases as authorised representative of the workers. It is not expected that he would come forward to support a false case of the management. His statement has, therefore, to be believed. Shri Ram Sumer workman having himself chosen not to appear before the enquiry officer and take part in the enquiry proceedings can not now be heard to say that the domestic enquiry had been held at his back and he had been denied the opportunity to appear and defend his case before the Enquiry Officer.

As has already been observed, according to the case of the management Shri Ram Sumer had disobeyed the order dated 7th September, 1969 requiring him to work in an other department. This fact is borne out from the testimony of Shri Devi Charan Proprietor and Shri K.C. Chopra, Manager, of which there is no reasonable rebuttal. There is no suggestion that the order of the management requiring him to work in an other department was in any way against the conditions of employment of Shri Ram Sumer and that being so he was duty bound to obey this order. That was not all. He had thereafter absented himself from duty for a number of days without doing any work in the factory and the management had to proceed against him for disobedience, insubordination and wilful absent from duty.

So, taking into considerations all the facts of the circumstances of the case discussed above, I do not find anything wrong with the impugned order of the termination of the services of Shri Ram Sumer. The issue in the case is decided against him and in favour of the management with the result that he is not entitled to the relief of reinstatement or back wages claimed by him. I give my award accordingly but without making any order as to costs.

Dated 29th January, 1971.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 135, dated the 1st February, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 29th January, 1971.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1322/LAB-71/3942.—In pursuance of the provisions of section 16 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/S Atlas Cycle Industries Ltd. Sonepat.

BEFORE SHRI S. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDBAD

Reference No. 185 of 1969

between

SHRI O. P. SIKKA WORKMAN AND THE MANAGEMENT OF M/S ATLAS CYCLE
INDUSTRIES, LTD., SONEPAT

Presence:—Shri V. B. Datta and Shri S. P. Sikka concerned Workman.
Dr. Anand Parkash for the management.

448
AWARD

Shri S. P. Sikka, the workman concerned, in the present case, was a senior Assistant in the office of M/s Atlas Cycle Industries, Ltd. in their factory at Sonepat. By order dated 9th September, 1968, he was transferred from Sonepat to Bombay where the management had opened its branch and he was directed to report there on 14th September, 1968 but he did not do so on medical grounds. He also instituted a Civil Suit in the Court at Sonepat questioning the right of the management to transfer him to Bombay. The stay of the operation of the transfer order sought by him was declined by the Court and it has come in evidence that suit was eventually dismissed.

Shri Sikka, however, still failed to report himself for duty in the office at Bombay and the management consequently discharged him from its service,—*vide* order dated 15th November, 1968. He then served the management with demand notice seeking reinstatement with full back wages whereupon conciliation proceedings were initiated by the Labour-cum-Conciliation Officer, Sonepat but without any success.

The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act 1947, referred the following disputes for adjudication to this Tribunal,—*vide* order No. ID/RK/30 M-69/34266, dated 16th December, 1969.

Whether the termination of services of Shri S. P. Sikka was justified and in order. If not, to what relief is he entitled?

The parties filed their respective statements in response to the notice of the reference issued to them. The workmen re-iterated his claim for reinstatement with full back wages contending that the management was not competent to transfer him to Bombay nor was there any justification for passing the impugned order of his discharge from service when he had failed to report at Bombay office on medical grounds.

The management contested the above claim on several grounds pleading *inter-alia* that in view of a settlement arrived at between the workers and the management of M/S Atlas Cycle Industries, Sonepat during conciliation proceedings on 5th August, 1968, Shri Sikka was debarred from raising the dispute and reference of the same by the Government to this Tribunal was bad in law.

It will not be out of place to mention here that the above plea challenging the authority of the reference on the basis of the alleged settlement of 5th August, 1968 was raised by the management in reference Nos. 9, 10, 11 of 1970, pertaining to other workmen also but my learned predecessor,—*vide* his order dated 24th July, 1970 had disallowed this plea feeling aggrieved the management filed writ petition in the High Court for the States of Punjab and Haryana at Chandigarh.

The matter has, however, been set at rest by the High Court,—*vide* its judgement dated 27th November, 1970 wherein Mr. Justice Shri S. S. Sandhawalia has been pleased to up-hold the contention raised on behalf of the management and observe that the reference of the industrial dispute being barred under the aforesaid settlement of 5th August, 1968 which is binding upon the parties is bad in law.

In view of the above no proceeding are called for in the case and the reference has to stand as rejected, being invalid and I order accordingly. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 132, dated 1st February, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 29th January, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.